

REMARKS

The present invention is a method and system for stunning of poultry for slaughter using a stunning gas contained within a stunning chamber through which the poultry are conveyed by at least one conveyor. The poultry are conveyed successively through the stunning chamber wherein the influence of the stunning gas is adjusted by reducing or increasing an active length of at least one conveyor for conveying the poultry through the stunning chamber.

The Examiner's indication that claims 3 and 5-8 contain patentable subject matter is noted with appreciation.

A Substitute Specification is submitted herewith to improve the form of the application for reexamination including amendment of the specification to correct the informalities noted by the Examiner.

The objection to the drawings pursuant to 37 C.F.R. §1.83(a) is noted. The Examiner indicates that the claimed subject matter of "a helical conveyor interacting with a horizontal, telescopic conveyor" is not shown in the drawings. The Examiner is referred to Fig. 2 for the illustration of the currently claimed subject matter of the claims reciting a helical conveyor which no longer recite a horizontal telescopic conveyor. Accordingly, it is submitted that the drawings are now fully in compliance with 37 C.F.R. §1.83(a). However, if the Examiner disagrees, it is requested that the Examiner indicate on the record so the Applicant may consider the making of any necessary drawing corrections.

Claims 1-8 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which Applicants regard as the invention. Newly submitted claims 9-32 have been rewritten to overcome the stated grounds of rejection.

Claims 1, 2 and 5 stand rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent 6,623,347 (Grimsland et al). This patent, and also Grimsland et al Patent 6,174,228, which has been cited on the International Search Report, do not disclose the subject matter of newly submitted independent claims 9 and 15 which respectively recite a method for stunning of poultry for slaughter and a system for stunning of poultry for slaughter using a stunning gas. Each of the foregoing claims 9 and 15 recite adjustment of an active length of a conveyor conveying poultry through the stunning chamber. This subject matter has no counterpart in either of the Grimsland et al Patents since neither patent discloses an adjustment of the active length of at least one conveyor conveying poultry through a stunning chamber. This is readily apparent from review of the conveyor in the '228 and '347 Patents which, as illustrated in Fig. 1, conveys poultry downward through a stunning tunnel which has a fixed length. Accordingly, the subject matter of claims 9 and 15 is not anticipated.

Moreover, the dependent claims are also not anticipated for this reason.

Finally, there is no basis in the record why a person of ordinary skill in the art would be led to modify the teachings of the Grimsland et al Patents to arrive at the claimed subject matter of claims 9-32 except by impermissible hindsight.

Finally, the Examiner is provided with a copy of United States Patent 7,097,552. A PTO Form 1449 is included to show that the Examiner has considered this Patent. The Examiner will note the European Search Report of April 23, 2004,

which has been filed with the U.S. PTO, considers EP 1,405,564 as an "A" category reference, which is the Examiner's counterpart of the '552 Patent.

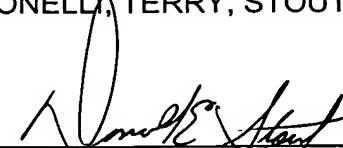
Moreover, the Examiner is referred to the November 7, 2005 Notice of Missing Requirements Under 35 U.S.C. 371 which includes a statement that "priority documents filed on 7/22/2005". This statement is understood by the undersigned that the Examiner has the foregoing priority document either in the file or is available to him. It is requested that the Examiner consider whether there is any question of support in the priority document for the current claimed subject matter which, if supported therein, antedates the §102(e) September 30, 2003 filing date of the '552 Patent.

In view of the foregoing amendments and remarks, it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (900.45210X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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Attachments

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